

Hon. Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JENNIFER P. SCHWEICKERT,

Plaintiff,

v.

HUNTS POINT VENTURES, INC.; HUNTS
POINT VENTURE GROUP, LLC; CHAD
RUDKIN and ELIZABETH RUDKIN, and
their marital community comprised thereof;
JOHN DU WORS and AMBER DU WORS,
and their marital community comprised
thereof; and DOES 1-4,

Defendants.

Case Number: 13-CV-675RSM

**PLAINTIFF'S OPPOSITION TO
DEFENDANT DU WORS' MOTION TO
PERMIT FILING OF AMENDED
SUMMARY JUDGMENT**

Plaintiff Jennifer Schweickert respectfully submits the following memorandum of points and authorities in opposition to defendant's motion for leave to amend to file amended motion for summary judgment.

1. Defendant has failed to establish "good cause" to justify modifying the case schedule.

Under Fed.R.Civ.P. 16 (b)(4), a case schedule may only be modified with the court's consent and upon a showing of good cause.

(4) *Modifying a Schedule.* A schedule may be modified only for good cause and with the judge's consent. FRCP 16 (b)(4).

Defendant's motion fails to make the requisite showing of "good cause" that would justify the modification to the case schedule. Defendant argues only that the amended motion for summary judgment was drafted and filed, only three days after the original motion for summary judgment, because:

Accordingly, the motion was redrafted to hopefully set forth Defendants' arguments in a more cogent and succinct form. The arguments and legal authority are essentially the same as those set forth in the initial filing. Moving papers at 2.

In short defendant cannot provide any facts that would demonstrate "good cause" to modify the case schedule. Mere "clarification" of arguments does not provide the court with the requisite factual showing, especially in light of defendant's admission that the "arguments and legal authority are essentially the same."

2. Plaintiff faces "actual prejudice" having to oppose two different motions for summary judgment.

Contrary to the assertion in defendant's motion, plaintiff faces the possibility of actual prejudice in having to oppose two, separate motions for summary judgment. Given the status of the court's calendar, and the fact that this motion will be heard on the Friday before plaintiff's opposition is due, plaintiff will file an opposition to the original motion for summary judgment, and then be forced to file a second opposition to the amended motion for summary judgment, if the court grants this motion.

This motion is another example of defendant failing to conduct discovery and comply with the court's case schedule in a reasonable manner. Every act of defendant is done either at the applicable deadline, or after the deadline has passed. Defendant failed to conduct the depositions of two witnesses within the timing of the case schedule, and has likewise moved the court for leave. Defendant failed to timely file subpoenas, and filed a motion for leave of court.

1 Now defendant seeks leave of court to file an amended motion for summary judgment, even
2 though the arguments and authorities are “essentially the same.” Since there is no meaningful
3 argument that is raised in the amended motion for summary judgment, and thus, no “good cause”
4 for the amended motion, the court should deny defendant’s motion for leave to file the amended
5 motion for summary judgment.

6 **CONCLUSION**

7 For the reasons set forth hereinabove, plaintiff respectfully requests the court deny
8 defendant’s motion for leave to file amended motion for summary judgment.

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10
11 /s/ Reed Yurchak

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